

DD/A Registry
File 04M-1

MEMORANDUM FOR: Chief, Regulations Control Branch
Information Systems Analysis Staff

FROM: Edward L. Sherman
Director of Finance

SUBJECT: Proposed Revisions [redacted]
Settlement of Accounts for Claims Involving
Special Considerations (Draft B)

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1. Attached are subject proposed revisions which incorporate several changes recommended by coordinators of Draft A.

2. Proposed revision of [redacted]

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[redacted] include policy and procedures for the settlement of accounts of Agency personnel, for reporting to the Attorney General violations of the criminal provisions of the U.S. Code, and for referring certain cases to the General Accounting Office for settlement.

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[redacted] are added to include policy and procedures concerning the collection and settlement of debts due the Agency.

3. Questions concerning these proposed revisions may be addressed to [redacted]

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Edward L. Sherman

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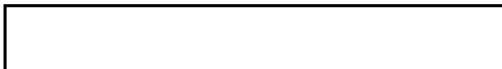
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FINANCIAL ADMINISTRATION



8. SETTLEMENT OF ACCOUNTS INVOLVING SHORTAGES
OR OVERAGES OF AGENCY FUNDS

SYNOPSIS. This regulation sets forth statutory requirements, policy, authorities, and responsibilities for settlement of accounts of Agency personnel that involve physical shortages or overages of Agency funds. Specific responsibilities and procedures are prescribed in



a. GENERAL.

(1) Public Law 80-321 dated 1 August 1947, 61 Stat. 720, 31 U.S.C. 82a-1 authorizes the General Accounting Office to relieve any present or former disbursing or other accountable officer or agent of the Government charged with responsibility for physical loss or deficiency of Government funds in his or her charge if the General Accounting Office concurs in the responsible agency head's recommendations and determination that:

(a) Such loss or deficiency occurred while

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such officer or agent was acting in the discharge of official duties, or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and

(b) Such loss or deficiency occurred without fault or negligence on the part of such officer or agent.

Implementing General Accounting Office regulations (7 GAO 28.14(3), as amended) provide that cases involving such loss or deficiency arising from a single incident (or series of similar incidents occurring about the same time), amounting to less than \$500, may be resolved by administrative action of the agency concerned and are not required to be reported to the General Accounting Office. These provisions, however, do not apply to cases involving fraud, exceptions raised by the General Accounting Office, or unusual irregularities that are required to be referred to the General Accounting Office regardless of amount.

(2) The Department of the Treasury's Manual of Procedures and Instructions for Cashiers dated June 1976,

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paragraph 0509, in pertinent part states: '' Any overages will be deposited to Miscellaneous Receipts Account-1060 Forfeitures of Unclaimed Money and Property (name of department or agency).''

(3) Under the Agency's authorities in Sections 8(a) and 8 (b) of the CIA Act of 1949, as amended, any case of physical shortage or overage of Agency funds involving activities that in the national interest require security protection may be settled by the Agency without regard to any other provisions of law and regulations. However, in the settlement of any case that presents a question of possible violation of the criminal provisions of the United States Code and that must be reported to the Attorney General this authority will be exercised in compliance

b. DEFINITIONS. For purposes of this regulation the following definitions apply:

(1) AGENCY FUNDS are currency, cash on deposit, commodity assets, checks, securities, and investments, for which the Agency is accountable, including funds advanced

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to Agency personnel for which they are officially responsible.

(2) SHORTAGE means a physical deficiency of Agency funds for whatever reason, including loss, disappearance, theft, abandonment, destruction, fraud, larceny, and embezzlement.

(3) OVERAGE means physical possession of an unaccountable excess of funds for whatever reason.

c. POLICY

(1) The Agency will review all accounts of Agency personnel or former personnel that involve shortages or overages of Agency funds and determine whether:

(a) The responsible individual was acting in the discharge of his or her official duties when the shortage or overage occurred.

(b) The shortage or overage occurred because of the act or omission of a subordinate of the responsible individual.

(c) There was negligence or fault on the part of the responsible individual.

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(d) The responsible individual should be held pecuniarily liable for or granted relief from any shortage charged to him or her.

(e) The case involves activities which in the national interest require security protection.

(f) The case presents a question as to violation of the criminal provisions of the United States Code.

(2) Based upon the above determinations and except as provided in paragraph c(3) below, the Agency will:

(a) Settle each shortage case by administrative action or refer it to the General Accounting Office for settlement, as appropriate, in compliance with the provisions of paragraph a(1) above, provided that any such case which in the national interest requires security protection will be settled by the Agency under the authority of Section 8 of the CIA Act of 1949, as amended.

(b) Settle each overage case by appropriate administrative action and payment of the amount of the

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overage to the U.S. Treasury for deposit to Miscellaneous Receipt Account 1060-Forfeiture of Unclaimed Money and Property.

(3) In compliance with the provisions of STAT any case presenting a question as to violation of the criminal provisions of the United States Code (e.g., fraud, embezzlement, misrepresentation, false claim, larceny, theft or misuse of Agency funds) will be promptly reported through the Deputy Director concerned to the Inspector General who will conduct an investigation and report his findings to the General Counsel. As appropriate, the General Counsel will make a report to the Attorney General. The Inspector General's report will include an evaluation of the impact, if any, of a prosecution on the national security or on foreign relations of the United States, including intelligence operations that may be jeopardized or intelligence sources and methods that may be compromised thereby.

(4) When the findings relative to any shortage or overage case indicate carelessness or fault on the part

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of an individual, the responsible Deputy Director or Head of Independent Office will be provided a report, with a copy to the Inspector General, of the findings for possible disciplinary action.

d. AUTHORITIES. The following officers are authorized to settle shortage and overage cases, except as specified in paragraph c(3) above, in a manner consistent with Agency policy and statutory requirements in the amounts indicated:

(1) Chiefs of Station and Base, for amounts through \$100 in accounts other than their own.

(2) Director of Finance, for amounts through \$1,000.

(3) Deputy Director for Administration, for amounts over \$1,000 through \$5,000.

(4) Deputy Director for Operations, for amounts through \$5,000 in operationally sensitive cases involving nonstaff personnel (except career associates) which the Deputy Director for Operations determines stem from

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extraordinarily delicate and confidential Agency relationships or activities and should be settled in accordance with the provisions

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(5) The Deputy Director of Central Intelligence, for amounts over \$5,000.

The above authorities may not be redelegated.

e. RESPONSIBILITIES

(1) Agency personnel will report through command channels to the Director of Finance any shortage or overage of Agency funds in their charge (see for reporting procedures).

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(2) The Director of Finance will:

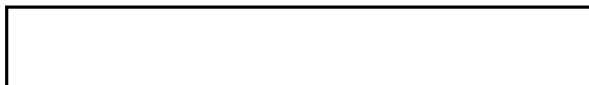
(a) Review each shortage or overage case, make the determinations required by paragraph c(1) above and take appropriate action in accordance with the procedures and guidelines prescribed in chapter VIII of HHB 30-1, to effect settlement of the case.

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(b) Maintain appropriate records of all overage and shortage cases settled in accordance with this regulation.

(3) The Board of Review, organized as prescribed



will consider and recommend

action for the settlement of accounts referred to it.

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CHAPTER VIII

SETTLEMENT OF ACCOUNTS INVOLVING SHORTAGES OR OVERAGES OF AGENCY FUNDS

75. GENERAL

This chapter prescribes responsibilities and procedures for reporting and settling accounts of Agency personnel that involve physical shortages or overages of Agency funds. Statutory requirements, policy, authorities, and responsibilities are set forth 

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76. BOARD OF REVIEW

- a. The Board of Review will consist of a representative of the Director of Finance; of the General Counsel; of the Chief, Audit Staff; of the Director of Security; and of the Special Support Assistant to the DDA. The board will include a representative of the Deputy Director or Head of Independent Office responsible for the activity that gave rise to the case under consideration by the board. The representative of the Director of Finance will be chairman and will designate a secretary from the Office of Finance to perform such duties as the board may direct. A quorum will consist of the chairman and two other board members, one of whom must be the representative of the Deputy Director or Head of Independent Office responsible for the activity that gave rise to the case under consideration.

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- b. The board will recommend to the Director of Finance, action for settling cases received for consideration that involve overages or shortages of Agency funds or debts due the Agency and will state the reasons for its recommendations. When recommendations of the board are not unanimous, both majority and minority opinions will be stated.

77. REPORTING SHORTAGES OR OVERAGES OF AGENCY FUNDS

- a. Within five days of learning of any apparent physical shortage or overage of Agency funds occurring at headquarters or in the field, a Head of Independent Office or Operating Official will notify the Director of Finance, except that discrepancies determined to be solely due to a bookkeeping or accounting error and that are resolved by the correction of records during this five-day period need not be reported. An Operating Official will send an information copy of such notification to the Deputy Director concerned. Notifications involving operationally sensitive cases of nonstaff personnel (except career associates) will be made to the Deputy Director for Operations, and an information copy of such notification will be sent to the Director of Finance.
- b. Following initial notification of a shortage or overage of more than \$100, the Head of Independent Office or Operating Official concerned will prepare a full report covering the following items as applicable:
- (1) Amount involved.

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- (2) Date when the shortage or overage became known.
- (3) Name and position title or category of employment of the person accountable for the funds.
- (4) Names of other persons having access to the funds.
- (5) Description of the safekeeping facilities used.
- (6) Detailed procedures for handling the funds.
- (7) Frequency of cash counts and names of the individuals who performed the counts.
- (8) Factual statement of findings and conclusions by an individual assigned by the Head of Independent Office, Operating Official, or Chief of Station or Base to investigate the matter.
- (9) Opinion of the Head of Independent Office, Operating Official, or Chief of Station or Base as to the probable cause of the shortage or overage.
- (10) Recommendation of the Head of Independent Office, Operating Official, or Chief of Station or Base as to the method of settlement and the reasons therefor.
- (11) Measures taken by the Head of Independent Office, Operating Official, or Chief of Station or Base to prevent subsequent shortages or overages of the type involved.
- (12) Signed statements from the accountable or responsible individuals concerned with or having direct knowledge relating to the shortage or overage.
- (13) Any pertinent documents.

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- c. Following initial notification of a shortage or overage of \$100 or less, the Head of Independent Office or Operating Official will prepare an abbreviated report that will include the information required by items (1), (2), (3), (9), and (11) immediately above, and as much of the additional information listed in paragraph 77b as the circumstances require.
- d. The Head of Independent Office or Operating Official concerned will forward the reports referred to in paragraphs 77b and c with recommendations to the Director of Finance for appropriate action, except reports involving operationally sensitive cases of nonstaff personnel other than career associates. Operating Officials will forward their reports through the Deputy Director concerned. In operationally sensitive cases involving nonstaff personnel (except career associates), the reports referred to in paragraphs 77b and c above will be forwarded with recommendations to the Deputy Director for Operations for appropriate action. Time limits for forwarding reports to the Director of Finance or the Deputy Director for Operations are as follows:
- (1) A report originating at headquarters will be forwarded not later than thirty days after the initial notification of discovery required by paragraph 77a above.
 - (2) A report originating in the field, referred to headquarters for settlement in accordance with paragraph 45b will be forwarded not later than thirty days after receipt at headquarters.

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(3) A report originating in the field, relative to any shortage or overage settled by a Chief of Station or Base in accordance with authority contained [] will be forwarded to the Director of Finance promptly after its receipt.

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(4) In particularly complex cases when reports referred to in paragraphs (1) and (2) above cannot be completed within the prescribed time limits, an interim report will be submitted.

e. The Director of Finance or Deputy Director for Operations will complete action on each report of shortage or overage (except those already settled by a Chief of Station or Base under authority [] within thirty days of receipt of the completed report.

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f. The Deputy Director or Head of Independent Office concerned will maintain a suspense file of shortages or overages of Agency funds on the basis of notifications, in accordance with paragraph 77a above, of their discovery to ensure that time limits for forwarding reports with recommendations are observed.

78. SETTLEMENT OF SHORTAGE AND OVERAGE CASES

This paragraph applies to the settlement of accounts of Agency personnel involving shortages or overages of Agency funds except those settled by a Chief of Station or Base under authority []

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a. The Director of Finance will take the following actions, as appropriate, relative to each report of a shortage or overage

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of Agency funds referred to him.

- (1) Refer to the Board of Review any such report for which the board's findings and recommendations for settlement are desired.
- (2) Make the determinations require 25X1
- (3) When it is determined that a case presents a question as to a violation of the criminal provisions of the United States Code (e.g., fraud, embezzlement, misrepresentation, false claim, larceny, theft or misuse of Agency funds), immediately refer that case through the Deputy Director for Administration and the Inspector General to the General Counsel for appropriate action relative to reporting the case to the Attorney General in accordance with the provisions The referral will include a summary of pertinent facts and any available documentary evidence. 25X1
- (4) When it is determined that a case other than one covered by paragraph 78a(3) above should be referred to the General Accounting Office for settlement in accordance 25X1 promptly forward that case to the General Accounting Office through the Deputy Director for Administration for concurrence and signature on behalf of the Director. The referral will include a summary of the pertinent facts, the Agency's determination and recommendations relative to relief of the accountable officer from responsibility for the shortage, and any available supporting documents considered pertinent to resolution of the case.

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(5) Except for cases covered by paragraphs 78a(3) and (4) above, effect final settlement under the following authorities:

(a) Each shortage case amounting to less than \$500, under authority

(b) Each shortage case that requires security protection, in any amount from \$500 through \$1,000, under authority of

(c) Each overage case in the amount of \$1,000 or less.

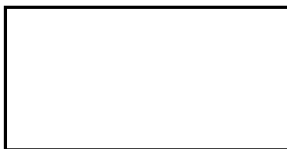
If the amount of the shortage or overage is over \$1,000 but not over \$5,000, refer that case to the Deputy Director for Administration for settlement and to the Deputy Director of Central Intelligence through the Deputy Director for Administration for settlement if the amount is over \$5,000. The referral will include a summary of pertinent facts and recommendations on proposed settlement actions for Deputy Director of Administration or Deputy Director of Central Intelligence approval. The referral will also cite the authority for the settlement proposed.

(6) When there is indication of carelessness or fault on the part of Agency personnel involved in a shortage or overage case, provide the responsible Deputy Director or Head of Independent Office with a report (and a copy to the Inspector General) of the pertinent facts for possible disciplinary action.

(7) Maintain appropriate records of all Agency shortage and overage cases settled pursuant to this chapter.

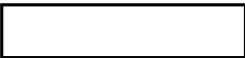

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b. The Deputy Director for Operations will review each report referred to him concerning a shortage or overage of Agency funds that involves operationally sensitive nonstaff personnel (except career associates) stemming from extraordinarily delicate and confidential Agency relationships or activities, and take the following action as appropriate:

- (1) Make the determinations required  and effect final settlement of any case if the amount is \$5,000 or less, except for a case covered by paragraph 78b(4) below, by whatever means the Deputy Director for Operations determines appropriate. 25X1
- (2) Refer to the Deputy Director of Central Intelligence for settlement any case in an amount exceeding \$5,000, except for a case covered by paragraph 78b(4) below. The referral will include a statement of pertinent facts and the recommendations of the Deputy Director for Operations for action to be taken, citing authority for such action.
- (3) When it is determined that a case presents a question as to a violation of the criminal provisions of the United States Code, promptly forward a summary of the pertinent facts together with any available documentary evidence through the Inspector General to the General Counsel for appropriate action relative to reporting the case to the Attorney General in accordance 

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(4) When the findings relative to a case indicate carelessness or other fault on the part of an individual, report the pertinent facts to the Inspector General and take whatever disciplinary action the Deputy Director for Operations determines appropriate in the circumstances.

(5) Promptly advise the Director of Finance of the disposition of each case settled by the Deputy Director for Operations under this paragraph.

c. When it has been determined to recover any indebtedness resulting from a shortage for which the responsible individual is found to be pecuniarily liable, the Director of Finance will do so in accordance with the procedures set forth

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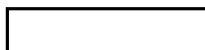
d. When it has been determined that a shortage case will be settled by write-off, the amount of the write-off will be charged to the appropriate FAN account for the fiscal year in which the settlement was approved. Records and documentation supporting the settlement voucher will set forth the basis and authority for the write-off.

e. Upon settlement of each overage case, the amount of the overage will be paid by the Director of Finance to the U.S. Treasury for deposit to Miscellaneous Receipt Account 1060-Forfeiture of Unclaimed Money and Property.

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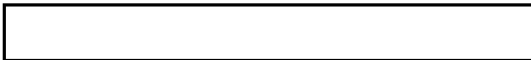
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16. COLLECTION AND SETTLEMENT OF DEBTS DUE THE
AGENCY

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SYNOPSIS. This regulation sets forth statutory requirements, policy, authorities, and responsibilities for the collection and settlement of debts due the Agency. Specific responsibilities and procedures are prescribed 

a. GENERAL.

(1) The Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) and implementing joint standards and regulations (4CFR 101-105, 4 GAO 52-92) provide that the head of an agency or designee, pursuant to regulations prescribed by the agency head and in conformity with the joint standards and regulations:

(a) Shall attempt collection of claims representing debts due the United States and arising out of the activities of the agency.

(b) May settle such debts that do not exceed

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\$20,000 (exclusive of interest) by compromise or write-off, provided it appears that no person liable for the debt has the present or prospective financial ability to pay any significant sum thereon, or the cost of collecting is likely to exceed the amount of recovery.

(c) Shall not exercise this authority (in paragraph a(1)(b) above) where there is indication of fraud, the presentation of a false claim, misrepresentation on the part of the debtor or any other party having an interest in the claim, or a claim based in whole or in part on conduct in violation of the antitrust laws. Debts involving such claims are required to be reported to the Attorney General for possible criminal prosecution or action to recover in accordance with 31 U.S.C. 231-235 and 4 GAO 76.

(d) Shall refer debts not collected or settled (other than those described in paragraph a(1)(c) above) to the General Accounting Office or to the Department of Justice, as appropriate, for litigation or settlement when required by 4 CFR 105 or 4 GAO 56-81.

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(2) 28 U.S.C. 535 together require that (a) information, allegations, or complaints of violations of Title 18 of the United States code involving Government officers and employees shall be expeditiously reported to the Inspector General who will conduct an investigation and report his findings to the General Counsel. As appropriate, the General Counsel will make a report to the Attorney General and (b) such reports shall include an evaluation by the Inspector General of the impact, if any, of a prosecution on the national security or foreign relations of the United States, including intelligence operations that may be jeopardized or intelligence sources and methods that may be compromised thereby.

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(3) Under the authority in Section 8 of the CIA Act of 1949, as amended, debts due the Agency involving activities that in the national interest require security protection may be settled by the Agency without regard to any other provisions of law and regulations unless the case is required to be reported

to the Attorney General in accordance with the provisions of paragraphs a(1)(c) or a(2) above.

b. DEFINITION. For purposes of this regulation, "debts due the Agency" are amounts due the United States for money or property, arising out of Agency activities, and for which debtors have a legal obligation to pay. Such debts may result from (1) the Agency's provision of services (including personal services) or property to others; (2) erroneous, improper, or illegal payments of Agency funds; (3) claims for erroneous payments of pay or allowances to employees for which a waiver has been denied under [REDACTED] (4) failure by the recipient of an advance of Agency funds to refund or properly account for all or a portion of the advance; (5) pecuniary liability for damage to, loss or destruction of Agency-owned or controlled property [REDACTED], or for shortage of Agency funds [REDACTED] (6) tort claims (4 GAO 67-69); or (7) other activities giving rise to a legal obligation to pay or render something to the

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Agency in return for something received.

c. POLICY

(1) The Agency will attempt collection of all debts due except when:

(a) Security constraints preclude positive collection action; or

(b) The case is required to be reported to the Attorney General in accordance with the provisions of paragraphs a(1)(c) or a(2) above, regardless of security constraints.

(2) When a debt not covered by paragraphs c(1)(a) or (b) above cannot be collected in full after all reasonable collection actions have been taken, it will be settled by the Agency under authority of paragraph a(1)(b) or a(2) above referred to the Department of Justice or the General Accounting Office for litigation or settlement, as appropriate.

(3) A case (other than a case covered by paragraph c(1) above) wherein security constraints preclude positive collection action, including referral to the

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Department of Justice or the General Accounting Office for litigation or final settlement, will be compromised or written off under the authority of Section 8 of the CIA Act of 1949, as amended. Documentation supporting the write-off will include a clear statement of the security constraints involved and reasons why they preclude positive collection actions.

(4) A case covered by paragraph c(1)(b) above will be reported promptly to the Attorney General by the General Counsel.

d. AUTHORITIES. The following officers are authorized to settle, by compromise or write-off consistent with Agency policy and statutory requirements, debts due the Agency in the amounts indicated:

(1) Director of Finance, for all amounts through \$1,000.

(2) Deputy Director for Administration, for amounts over \$1,000 through \$5,000.

(3) Deputy Director for Operations, for amounts through \$5,000 in operationally sensitive cases involving

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nonstaff personnel (except career associates) which the Deputy Director for Operations determines stem from extraordinarily delicate and confidential Agency relationships or activities and should be processed in accordance with provisions of

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(4) The Deputy Director of Central Intelligence, for amounts over \$5,000.

The above authorities may not be redelegated.

e. RESPONSIBILITIES

(1) Agency personnel will report through command channels to the Director of Finance:

(a) Any debts due the Agency for money or property arising out of Agency activities for which they are responsible.

(b) Any amounts paid to them or on their behalf by the Agency that they believe to have been paid in error. Such funds received will be safeguarded and transmitted,

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to the Director of Finance through proper Agency channels.

(2) The Director of Finance will:

(a) Review each case of a debt due the Agency and determine its validity, collectability, estimated collection costs, security constraints, if any, whether the case presents a question as to a violation of anti-trust laws or criminal provisions of the United States Code, and its proper disposition under the provisions of paragraph c above. Based on these determinations he will take appropriate actions in accordance with the procedures prescribed to:

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(1) Collect the debt;

(2) Effect settlement of the case by compromise or write-off subject to approval as required by paragraph d above;

(3) Refer the case to the Department of Justice or the General Accounting Office for litigation or final

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settlement subject to concurrence of the Deputy Director for Administration, Inspector General, and General Counsel; or

(4) Submit the case through the Deputy Director for Administration to the Inspector General and General Counsel for reporting to the Attorney General.

(b) Maintain appropriate records of all collections, settlements, or other dispositions of debts due the Agency.

(1) The Board of Review, organized as prescribed in paragraph 76 will consider and recommend action for the settlement of accounts referred to it.

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CHAPTER XV: COLLECTION AND SETTLEMENT OF
DEBTS DUE THE AGENCY

127. GENERAL

This chapter prescribes responsibilities and procedures for the collection and settlement of debts due the Agency. Statutory requirements, definitions, policy, authorities, and responsibilities are contained [REDACTED]

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128. RESPONSIBILITIES AND PROCEDURES

a. The Board of Review, organized as prescribed in paragraph 76, will recommend to the Director of Finance action for settling any case of a debt due the Agency received by the board for consideration and will state the reasons for its recommendations. When recommendations of the board are not unanimous, both majority and minority opinions will be stated. The board may request from Agency components any additional information essential for its consideration.

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b. The Director of Finance will review each case of a debt due the Agency received by him for collection or settlement in accordance [REDACTED] make the determinations required [REDACTED] and take the following actions as appropriate:

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- (1) When it is determined that a debt should be collected, take aggressive action on a timely basis to collect the debt in accordance with the procedures prescribed in paragraph 129 below.

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- (2) Refer to the Board of Review any case for which the board's recommendation for settlement or other disposition under provisions [] are desired.
- 25X1 (3) When it is determined that a case presents a question as to violation of the antitrust laws or criminal provisions of the United States Code [] promptly forward a summary of the pertinent facts together with any available documentary evidence through the Deputy Director concerned, the Deputy Director for Administration and the Inspector General to the General Counsel for appropriate action in reporting to the Attorney General subject to the restrictions []
- 25X1 (4) Promptly forward to the Deputy Director for Operations for handling, in accordance with the provisions of paragraph 128c below, any operationally sensitive case involving nonstaff personnel (except career associates) stemming from extraordinarily delicate and confidential Agency relationships or activities.
- (5) When it is determined that a debt (except a debt covered by paragraph 128a(3) is administratively uncollectible or that security constraints preclude either its collection or referral to the Department of Justice or the General Accounting Office for litigation of final settlement in compliance with paragraph 130d(2) or (3) below:
- (a) Effect settlement by compromise or write-off, as appropriate, in accordance with applicable procedures prescribed in paragraph 130 below if the amount does not exceed \$1,000.

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- (b) Submit recommendations for proposed settlement to the Deputy Director for Administration for approval if the amount exceeds \$1,000 but does not exceed \$5,000, or through the Deputy Director for Administration to the Deputy Director of Central Intelligence (DDCI) for approval if the amount exceeds \$5,000.
- (6) When it is determined that a case should be referred to the Department of Justice of the General Accounting Office for litigation or final settlement in accordance with paragraph 130d(2) or (3) below, forward it to the Department of Justice or the General Accounting Office through the Inspector General and the General Counsel for concurrence and the Deputy Director for Administration for signature on behalf of the Director. The referral will contain a summary of pertinent facts and any recommendations considered appropriate.
- (7) Maintain appropriate records of all collections, settlements, or other disposition of debts due the Agency.
- c. The Deputy Director for Operations will review all cases of debts due the Agency received by him that involve operationally sensitive cases of nonstaff personnel (except career associates) stemming from extraordinarily delicate and confidential Agency relationships or activities and take the following actions as appropriate:

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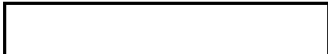
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- (1) Effect settlement of any debt in the amount of \$5,000 or less which is determined to be uncollectible except a case covered by paragraph 128c(3) below. Settlement will be in accordance with the applicable procedures in paragraph 130 below.
 - (2) Refer to the DDCI for settlement or other appropriate action any case in an amount exceeding \$5,000 except a case covered by paragraph 128c(3) below. The referral will include a summary of pertinent facts.
 - (3) When a case presents a question of possible violation of antitrust laws or criminal provisions of the United States Code  and (2)), promptly forward a summary of the pertinent facts together with any available documentary evidence through the Deputy Director for Administration and Inspector General to the General Counsel for reporting to the Attorney General in compliance 
 - (4) When it has been determined to recover an indebtedness in full or in part, refer the case to the Director of Finance for collection.
 - (5) Promptly advise the Director of Finance of the final disposition of cases settled under this paragraph.
- d. The Director of Security upon request will provide assistance in locating debtors and advice as to security aspects of enforcing proposed collection actions.

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129. PROCEDURES FOR ADMINISTRATIVE COLLECTION OF DEBTS DUE THE AGENCY

- a. A plan should be developed for timely, forceful, and persistent action to collect from the individual payee, recipient, or other person or entity legally liable for payment of a debt due the Agency. The plan should be designed for the earliest practicable collection commensurate with the circumstances in the case, amount of the debt, and estimated cost of collection.
- b. The procedures for a debt collection plan should provide for all methods of collection reasonably available to the Agency, such as the following:
 - (1) The obtaining of Office of Security assistance in locating the debtor as well as advice on security aspects of the case.
 - (2) Appropriate written demands for payment (normally three) at 30-day intervals unless a response to the first or second demand transmitted payment of a satisfactory settlement proposal, or indicated that further demands would be futile. The demands should contain a clear explanation and description of the debt and inform the debtor of the consequences of failure to cooperate. Where appropriate, demands should be forwarded by registered mail with a return receipt requested. There should be no excessive time lag in responding to any communication received from the debtor.

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- (3) Collection by set-off, when appropriate, against amounts due indebted contractors under Agency contracts. When amounts due under Agency contracts are insufficient to cover the debt, arrangements may be made by the Assistant Director for Liaison, Office of Finance, for set-off against amounts due the indebted contractor under contracts with other Federal agencies (4GAO 58-62), provided such action is not precluded by security constraints.
- (4) Collection by set-off against amounts due indebted individuals when authorized by law, with particular reference to the withholding authority in 5 U.S.C. 5513-5514; FPM Supplement 831-1, subchapter S-19-2; and Comptroller General Decision B-162026 dated 13 August 1967. Amounts due individuals that are available for set-off include pay, allowances, other compensation, reimbursements, and retirement annuities. Set-off against the pay of an employee may not exceed two-thirds of the pay from which the deduction is made unless deduction of a greater amount is necessary to make the collection within the period of anticipated employment.
- (5) Personal interviews with the debtor when feasible, with regard for the amounts involved and proximity to debtor.
- (6) If a debtor is employed by another Federal agency or is a member of the military establishment or the Coast Guard, arrangements by the Assistant Director for Liaison, Office


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of Finance, to contact the employing agency to arrange with the debtor payment of the debt by allotment or otherwise, provided such action is not precluded by security constraints. (See Executive Order 11222, Sec 206, dated 8 May 1965; 3 CRF, 1965 Sup; )

- (7) If the debtor is financially unable to pay the debt in one lump sum, collection in regular installments over a reasonable period commensurate with the size of the debt and the debtor's ability to pay. Normally the installment terms should provide for liquidation of the debt in not more than three years.

130. PROCEDURES FOR SETTLEMENT OF ADMINISTRATIVELY UNCOLLECTIBLE DEBTS

- a. In accordance  the Agency will settle administratively uncollectible debts that do not exceed \$20,000 exclusive of interest (except those covered by paragraph 130b and d below) under authority of the Federal Claims Collection Act of 1966, as amended, by compromise of write-off as follows:

- (1) Settlement by compromise will be attempted when:
- (a) The Agency cannot collect the full amount of the debt because of the debtor's inability or unwillingness to pay the full amount within a reasonable time.
 - (b) There is real doubt concerning the Agency's ability to prove its case in court for the full amount of the debt because of the legal issues involved or a bona fide dispute as to the facts.

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- (c) The cost of collecting the debt does not justify the enforced collection of the full amount.

The amount accepted in compromise may be determined on the basis of the debtor's financial condition, availability of assets or income that could be realized by enforced collection proceedings, and the administrative and litigative costs of enforced collection in full, with regard for the time it will take to effect such collection. If the Agency does not have sufficient credit information for assessing the debtor's ability to pay, a statement should be requested from the debtor executed under penalty of perjury showing assets and liabilities and income and expenses. Consideration also should be given to the debtor's age and health, present and potential income, inheritance prospects, and the possibility that assets have been concealed or improperly transferred. Compromises payable in installments should be avoided; but if installments become necessary, an agreement for the reinstatement of the prior indebtedness less sums paid thereon and acceleration of payment of the balance due upon default should be obtained from the debtor. Collateral should also be obtained if possible.

- (2) A debt will be charged as an expense when:

- (a) The debtor is deceased and left no estate.
- (b) The debtor is a corporation which has been dissolved and there are no corporate assets from which collection can be made and the whereabouts of the corporation's officers and directors are unknown.

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- (c) The debtor cannot be located, there is no collateral remaining to be liquidated, the applicable statute of limitations has run out, and the prospects of collecting by set-off are too remote to justify retention of the debt.
- (d) It is determined that the Agency's claim against the debtor is legally without merit or cannot be substantiated by evidence necessary to prove the claim or the necessary witnesses are unavailable and efforts to induce voluntary payment are unavailing.
- (e) No person liable for the debt has the present or prospective financial ability to pay any significant sum thereon.
- (f) All reasonable administrative collection actions have been taken and the cost of further efforts by the Agency to enforce collection would exceed the amount of recovery. The category may include but is not limited to the following:
- (1) Debts of less than \$400 when the debtor is involved in bankruptcy proceedings or when the debt arose out of damage to or loss of property due to tortious acts.
 - (2) Debts of less than \$500 unless the debtor is receiving a salary or retired pay from the United States.

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(3) Debts of less than \$800 where (a) the debtor cannot be located, or (b) the debtor's family income is less than \$7,500 per year and is derived from non-Federal sources and there is no indication that the debtor has a high income potential or has inheritance prospects or assets that may be realized by enforced collection proceedings.

b. In accordance [] a debt will be written off under the Agency's authority in Section 8 of the CIA Act of 1949, as amended, regardless of the amount when security constraints preclude:

- (1) Collection action in accordance with paragraph 129 above; or
- (2) Referral to the Department of Justice or the General Accounting Office in compliance with paragraph 130d(2) or (3) below.

c. When it has been determined that a debt will be settled by compromise or write-off:

- (1) The settlement must be approved by the proper authority as prescribed []
- (2) The amount of the write-down or write-off will be charged to the appropriate cost account for the fiscal year in which the settlement was approved.

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(3) Records and documentation supporting the settlement voucher will reflect all administrative collection actions taken and set out in detail the basis and authority for settlement. When settlement is made pursuant to the provisions of paragraph 130b above, the documentation will also include a clear statement of the security constraints and reasons why they preclude collection or referral to the Department of Justice or the General Accounting Office.

d. The following cases of debts due the Agency, subject to the constraints imposed [] are required to be referred to the Attorney General, the Department of Justice, or the General Accounting Office for possible prosecution and action to recover or effect final settlement as indicated:

(1) To the Attorney General

Any case regardless of amount, collectibility, or security factors which presents a question as to violation of the antitrust laws or of the criminal provisions of the United States Code (e.g., fraud, embezzlement, the presentation of a false claim, misrepresentation, larceny) will be reported to the Attorney General by the General Counsel in accordance with provisions of paragraph 128b(3) or c(4) above, as appropriate.

(2) To the Department of Justice

Administratively uncollectible debts in the amount of \$400 or more (except those covered by paragraph 130d(1) above) will be referred to the Department of Justice for litigation

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or settlement when (a) the debt arose out of damage to or loss to Government property due to tortious acts (4 GAO 67-69) or (b) the debtor is involved in bankruptcy proceedings (4 GAO 78-81), unless security constraints preclude such referral and should be settled under the provisions of paragraph 103b above. Even in the absence of such security constraints, debts less than \$400 will be referred only if it is determined that (i) referral is important to a significant enforcement policy or (ii) the debtor has not only the clear ability to pay but the Government can effectively enforce payment, with due regard for the exemptions available to the debtor under State or Federal law and the judicial remedies available to the Government.

(3) The General Accounting Office

All administratively uncollectible debts (except those covered by paragraphs 130d(1) and (2) above) in excess of \$20,000 exclusive of interest, or those in the amount of \$20,000 or less which cannot be compromised or written off by the Agency in accordance with paragraph 130a or b above, will be referred to the General Accounting Office for settlement (4 CFR 105 and 4 GAO 56-81), unless security constraints preclude such referral and should be settled under the provisions of paragraph 130b above.

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